

Picard v. Ceretti et al.
Adv. Pro. No. 09-01161 (SMB)

TRANSFER ALLEGATIONS IN THE FOURTH AMENDED COMPLAINT

Paragraph	Allegation
¶ 32	Ceretti is resident of UK and maintains an address in the UK.
¶ 33	Grosso is a resident of the UK and maintains an address in the UK.
¶ 35	Grosso founded FIM Limited in the UK.
¶ 37	FIM USA was incorporated in DE, with a principal place of business in NY.
¶ 38	Kingate Global is organized under BVI law with address in BVI.
¶ 40	Kingate Euro is organized under BVI law with address in BVI.
¶ 42	Kingate Funds were “separate companies with separate boards of directors.”
¶ 43	Kingate Funds are in liquidation in BVI, and Joint Liquidators have been appointed. (No mention in this paragraph that Joint Liquidators have filed several actions in Bermuda, whereas Third Amended Complaint specifically alleges that the Joint Liquidators have brought an action against HSBC Bank Bermuda Limited f/k/a Bank Bermuda Limited seeking the proceeds of the transfers at issue in this action which are held in the Funds accounts).
¶ 44	Kingate Management Limited (KML) is organized under Bermuda law with an address in Bermuda.
¶ 48	KML is in liquidation in Bermuda, and a liquidator has been appointed to wind up the affairs of KML.
¶ 49	FIM Limited is organized in the UK with address in the UK.
¶ 50	FIM Advisers is formed under UK law with address in the UK.
¶ 51	KML and FIM Limited had a contract for management services from 1994-2005, and KML and FIM Advisers had a contract as of August 1, 2005.
¶ 52	KML and FIM Limited had a contract for distribution services from 2001-2005, and KML and FIM Advisers had a contract as of August 1, 2005.
¶ 54	El Praela Trust is organized in the Island of Jersey, and as of 2006, BVI law was designated as the law for the trust. Ceretti is a beneficiary.
¶ 55	El Praela Group Holding Services Limited is organized in BVI with address in BVI and registered agent in BVI. It has an administrative office in Monaco.
¶ 56	El Praela Trading is organized in BVI with address in BVI and registered agent in BVI. It has an administrative office in Monaco.
¶ 57	Alpine Trustees is organized in Liberia with address in Liberia. It was the Trustee of the El Praela Trust from 1994-2006.
¶ 58	Port of Hercules is incorporated in BVI with address in BVI and registered agent in BVI. It has been the Trustee of the El Praela Trust since 2006.
¶ 59	El Praela Trust was a 50% owner of KML. In 2008, Ceretti transferred the shares held by El Praela Trust to El Praela Group.

Paragraph	Allegation
¶ 60	Since 2001, KML transferred at least \$147M into bank accounts held by El Praela Trust, El Praela Group, Alpine Trustees, Port of Hercules and El Praela Trading.
¶ 63	Ashby Trust is organized in the Island of Jersey, and as of 2011, BVI law was designated as the law for the trust. Grosso is a beneficiary.
¶ 64	Ashby Holdings Services Ltd. is organized in BVI with address in BVI and registered agent in BVI. It has an administrative office in Monaco.
¶ 65	Ashby Investment Services Ltd. is organized in BVI with address in BVI and registered agent in BVI. It has an administrative office in Monaco.
¶ 66	First Peninsula is incorporated in Liberia with an address in Liberia. First Peninsula is trustee to Ashby Trust.
¶ 67	Ashby Trust was a 50% owner of KML. In March 2008, Ashby Trust transferred to Ashby Holdings all of the shares in KML owned by Ashby Trust, and in 1996 and 2000 it transferred certain shares to Alpine Trustees.
¶ 68	Since 2001, KML transferred at least \$149M into bank accounts held by Ashby Trust, Ashby Holdings, Ashby Investments and First Peninsula.
¶ 70	Ceretti and Grosso authorized the flow of “funds” into and out of bank accounts opened in Monaco, Bermuda, Guernsey, Island of Jersey, and Switzerland by Port of Hercules, Alpine Trustees, and First Peninsula for Ashby Trust and El Praela Trust.
¶ 72	Citi Hedge is incorporated in Bermuda and has an address in Bermuda
¶ 79	HSBC Bank Bermuda Limited f/k/a Bank Bermuda Limited has an address in Bermuda.
¶ 80	Kingate Funds maintained their accounts at Bank Bermuda.
¶ 86	On March 31, 2008, Grosso authorized Ashby Holdings to transfer \$5M to a bank account in NY. [The assertion does not allege that this is a subsequent transfer of funds originating with BLMIS, or even who the account belongs to.]
¶ 89	KML paid fees to FIM Limited at FIM Limited’s account with Brown Brothers Harriman & Co. in New York, New York.
¶ 106	In March 1995, KML and Tremont entered into a co-manager agreement with Kingate Global.
¶ 107	Under the co-manager agreement, Kingate Funds paid Kingate Management and Tremont a fee for services.
¶¶ 108, 109	Charts showing fees paid by Kingate Funds to KML and Tremont.
¶ 110	FIM Limited received a monthly fee from the fees paid to KML [by the Funds]. FIM Advisers replaced FIM Limited as consultant in 2005.
¶ 112	In April 2001, Kingate Funds and KML appointed FIM Limited as distributor. FIM Advisers replaced FIM Limited as distributor in 2005.
¶ 114	In January 2006, KML entered into a management agreement with Kingate Global, eliminating Tremont and making KML the sole manager.
¶ 117	Information Memorandum says that FIM Advisers was consultant to KML.
¶ 242	Kingate Funds maintained at least four accounts at Bank Bermuda.
¶ 243	From 1994-2008, BLMIS transferred at least \$916M to Kingate Funds into the Bank Bermuda accounts.

Paragraph	Allegation
<i>Initial Transfers</i>	
¶ 247	BLMIS made initial transfers of approximately \$399M for Kingate Global and \$528M for Kingate Euro.
¶¶ 248-252	Breakdown by time period of the alleged transfers into each Fund.
<i>Subsequent Transfers</i>	
¶ 253	Management Defendants, Trusts, Ceretti and Grosso, among others, were immediate or mediate subsequent transferees of the Transfers from BLMIS to the Kingate Funds.
¶ 254	Management Defendants received at least \$300M in fees.
¶ 255	Ceretti and Grosso received distributions from the Trusts, the Funds or the Management Defendants.
¶ 256	<p>The Trusts received the following subsequent transfers:</p> <ol style="list-style-type: none"> Port of Hercules HSBC account and Alpine Trustees received at least \$63M in transfers from KML, El Praela Group and El Praela Trading. Port of Hercules transferred out at least \$62M to Ceretti's personal bank account, El Praela Trading and other accounts held by Port of Hercules at Fortis Bank in Guernsey and in Switzerland. In 2006, Alpine Trustees received approximately \$16M in transfers from KML and subsequently transferred \$2M to Ceretti's personal bank account and \$14M to Port of Hercules. From April-December 2008, El Praela Group received at least \$18M in transfers of funds that were initially transferred from BLMIS to the Funds. El Praela subsequently transferred at least \$16M to Port of Hercules. In 2008, El Praela Trading received at least \$2M from Port of Hercules. From April-November 2008, Ashby Holdings received at least \$16.3M from KML and subsequently transferred at least \$16.3M to First Peninsula. From 2005-2008, First Peninsula received at least \$68M in subsequent transfers from KML, First Peninsula's HSBC account, Ashby Investment and Ashby Holdings. In October 2008, Ashby Investment transferred at least \$7M among its own bank accounts and subsequently transferred at least \$7M to First Peninsula.
¶¶ 317-321	Count 9 (subsequent transfer count). Does not identify any accounts but acknowledges that the Subsequent Transferee Defendants were immediate or mediate transferees of the transfers from BLMIS to the Funds.